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TECHNOLOGIES CORPORATION and MOLECULAR PROBES,
INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LIFE TECHNOLOGIES CORPORATION,
MOLECULAR PROBES, INC. AND THE
REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Plaintiffs-Counterclaim Defendants,

v.

EBIOSCIENCE, INC.,

Defendant-Counterclaim Plaintiff

CASE NO. 10-CV-2127-IEG (NLS)

**NOTICE OF DEFENDANT'S
SUPPLEMENT TO PLAINTIFFS'
INTERROGATORY NO. 4**

1 On July 1, 2011, the Parties filed a Joint Motion for Determination of Discovery Dispute
2 in which Plaintiffs Life Technologies Corporation, Molecular Probes, Inc., and The Regents of
3 the University of California (collectively "Plaintiffs") sought an order compelling Defendant
4 eBioscience, Inc. ("Defendant") to comply with its obligations under Patent Local Rule 3.4.a by
5 producing certain categories of technical documents describing the accused eFluor® products
6 (the "Accused Products"). *See* J. Mot. at 2, D.I. 60. In its portion of the Joint Motion, Defendant
7 represented that it would provide a supplemental response to Plaintiffs' Interrogatory No. 4,¹ and
8 that its supplement would address Plaintiffs' concerns regarding Defendant's failure to comply
9 with Patent L.R. 3.4.a. J. Mot. at 11, D.I. 60. Plaintiffs submit this paper to advise the Court
10 that, while Defendant has served a supplemental response, a copy of which is attached hereto, it
11 does not address Plaintiffs' concerns regarding Defendant's failure to comply with Patent L.R.
12 3.4.a.

13 Defendant's supplemental interrogatory response provides no detail regarding the
14 "operation of any aspects or elements of any Accused Instrumentality identified by [Plaintiffs] in
15 [their] Patent L.R. 3.1.c chart." Instead, Defendant merely identifies those claim limitations
16 allegedly absent from the Accused Products and provides absolutely no explanation for why the
17 elements of the Accused Products do not meet the limitations. Rather than remedying
18 Defendant's failure to comply with Patent L.R. 3.4.a, its supplemental response further
19 demonstrates the need for an order compelling Defendant to comply with its Patent L.R. 3.4.a
20 obligations by producing the requested documents.

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24 ¹ Plaintiffs' Interrogatory No. 4 requests: "For each method, process, operation, application,
25 service, product, reagent, kit, or system identified in Interrogatory No. 1 that You assert does not
26 infringe one or more of the claims of the Patents-in-Suit, identify the claims that You assert
27 would not be infringed; all bases on which You rely to contend that any such claims would not
28 be infringed either literally or under the doctrine of equivalents including any basis on which
You rely to assert that Life Tech is estopped from asserting infringement by the doctrine of
equivalents; all facts on which You rely for Your assertion; and all documents and circumstances
relating to those facts and all persons with knowledge of those facts."

1 Dated: July 12, 2011

2 /s/ Matthew D. Murphey

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1 *Life Technologies Corporation v. Ebioscience, Inc.,*
2 **United States District Court Case No. 10-CV-2127-IEG (NLS)**
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5 **ATTACHMENT FILED UNDER SEAL**
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8 **DEFENDANT EBIOSCIENCE, INC.'S FIRST SUPPLEMENTAL RESPONSES AND**
9 **OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**
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11 **CONTAINS EBIOSCIENCE, INC.'S HIGHLY CONFIDENTIAL INFORMATION**
12 **FOR ATTORNEYS EYES ONLY**
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CERTIFICATE OF SERVICE

I, Matthew D. Murphey, hereby certify that on July 12, 2011, I electronically filed the following document with the Clerk of the Court for the United States District Court, Southern District of California by using the CM/ECF system:

NOTICE OF DEFENDANT'S SUPPLEMENT TO PLAINTIFFS' INTERROGATORY NO. 4

Participants in the case who are registered CM/ECF users, as listed below, will be served by the CM/ECF system:

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 12th day of July, at San Diego, California.

/s/ Matthew D. Murphey
Matthew D. Murphy
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Attorney for Plaintiffs and Counter-Defendants